

**Representing Yourself in Administrative License Revocation
(Driver's License) Cases at the State Office of Administrative
Hearings**

A Guide for Self-Represented Litigants

State Office of Administrative Hearings

September 2016

This is a guide for people involved in an Administrative License Revocation, or ALR, case at the State Office of Administrative Hearings who do not have a lawyer for their hearing. When you don't have a lawyer, you are said to be representing yourself. In this guide, people who represent themselves are called "self-represented litigants." There are responsibilities and risks in representing yourself. The State Office of Administrative Hearings, or SOAH, encourages everyone who represents himself or herself to think carefully about the risks, responsibilities, and potential consequences.

If you represent yourself, you must follow SOAH's procedures for ALR cases. This guide will help you understand how to do that. Although SOAH staff may give you general information about rules and procedures, they cannot give you legal advice, help you interpret or apply rules, or otherwise participate in a hearing.

This guide is intended to provide general information. It is not legal advice, and it's not possible to cover every situation that might arise. Also, if there is any conflict between this guide and the applicable laws or rules, those laws or rules control.

The Basics

Contact Information for the Department of Public Safety:

ALR hearings: 512-424-2600

Occupational Licenses: 800-394-9913

Suspensions and fees: 512-424-2600

DPS Customer Service Center: 512-424-2600 and the following link:

https://www.dps.texas.gov/DriverLicense/customer_service/default.aspx

SOAH's procedural rules for ALR hearings are available [here](#).

What is the SOAH ALR hearing for?

The ALR hearing is to determine whether your driver's license will be suspended for a certain period of time following your arrest for Driving While Intoxicated, or (DWI), Boating While Intoxicated (BWI), or a Minor Under the Influence (DUI). The SOAH ALR hearing is an administrative hearing, not a criminal proceeding. The SOAH hearing and proposed suspension are unrelated to any DWI criminal case, even though they arose from the same event.

Who is the judge?

The hearing will be conducted by an administrative law judge employed by the State Office of Administrative Hearings, or SOAH.

What if my criminal case was dismissed?

This SOAH ALR hearing is not affected by any action in the criminal case, including a dismissal, with only one exception. If a trial is held in the related criminal DWI case, and you are found not guilty, the ALR suspension can be removed. In that case, you must notify the Department of Public Safety (DPS) regarding the not-guilty decision. See the DPS contact information above.

The officer took my license when I was arrested. I thought it was already suspended?

The law requires the officer to seize your license when the Notice of Suspension/Temporary Driving Permit is issued. When you timely request an ALR hearing, the suspension is placed on hold until the Administrative Law Judge makes a decision in your case. Please note that if you have any other type of active suspension on your license, the Temporary Driving Permit does not authorize you to drive.

I need photo identification.

Please contact your local DPS driver's license office regarding the availability of an official state identification card.

What if I do not have a driver's license?

If the Administrative Law Judge upholds the suspension, you can't get a driver's license until the "suspension" period has passed and you have paid the reinstatement fee.

What if I am licensed in another state?

If the Administrative Law Judge upholds the suspension, you will lose your privilege to drive in Texas until the "suspension" period has passed and you have paid the reinstatement fee. The state in which you are licensed may also suspend your license. SOAH does not have information about potential action by another state.

I don't want to represent myself. Can you appoint an attorney for me?

No, because this is not a criminal case, you are not entitled to a court-appointed attorney.

I have a court-appointed attorney for my criminal case. Will he represent me at this hearing?

Please talk to your attorney about this.

I have not hired an attorney, but I might be able to retain an attorney in the near future.

If you need time to hire an attorney, you may ask that your hearing be rescheduled, or continued. There is more discussion below about a request to reschedule the hearing.

How can you help me if I represent myself?

SOAH employees cannot provide legal advice. In other words, we cannot tell you what you should do with your case. However, we can provide general information and guide you through the SOAH procedures. If you have questions at any point during the process, please ask.

Before the Hearing

When will my hearing be held?

After you ask for a hearing, DPS will mail you a Notice of Hearing. This notice tells you when and where your hearing will take place. However, the hearing may be rescheduled by the Administrative Law Judge. It is important that you read any order from the Administrative Law Judge.

What if I need an interpreter or other special arrangements?

Please contact your local SOAH office as soon as possible.

I just received a Notice of Hearing in the mail a few days ago. I need more time to get ready for the hearing, and I can't take off work on such short notice.

You may ask for your hearing to be rescheduled for a later date. You will need to contact the local SOAH and DPS-ALR offices as soon as possible to let them know. You will need to ask the DPS attorney if he agrees to reschedule the hearing. The SOAH rules require you to file a written request (a "motion for continuance") with the Administrative Law Judge. You will need to include your full name as it appears on your driver's license, the docket number that appears on your Notice of Hearing, the date and location of your hearing, a statement that you are requesting the judge to reschedule your hearing, the reason you need the hearing to be rescheduled, and a statement that you have spoken to the local DPS attorney about your request to reschedule the hearing. You must state whether the DPS attorney has any objection to your request. You also need to sign your request and provide your current contact information, including your phone number.

A form for a motion for continuance is at the end of this Guide.

What if the DPS attorney objects to the hearing being rescheduled?

The Administrative Law Judge will decide whether the hearing will be rescheduled. Unless the Administrative Law Judge grants the motion for continuance, the existing schedule remains in place. If you have not received a written order from the Administrative Law Judge, please contact your local SOAH office for information about your request.

How can I contact the local SOAH and DPS-ALR offices?

On the back of your Notice of Hearing, about halfway down the page, there is a section called “State Office of Administrative Hearings.” At the end of that section, a phone number is listed for the local SOAH office. The SOAH clerk can provide a contact number for the local DPS attorneys.

What if I have moved or changed phone numbers?

It is important to make sure that the local SOAH and DPS-ALR offices have your current address and phone number. Documents and orders need to be mailed to you before and after the hearing. If you requested a hearing by phone, the Administrative Law Judge will need a correct phone number to call you for the hearing. For all hearings, the DPS attorney will need to speak with you if DPS needs to ask the Administrative Law Judge to reschedule the case. **You must notify SOAH and DPS in writing about any change of address or telephone number.**

Where can I find directions for the hearing location?

Please visit www.soah.texas.gov for directions. You can also contact your local SOAH office for information about directions and parking.

Will my hearing be at a courthouse?

SOAH’s headquarters are in a state office building in Austin, and SOAH’s regional offices are located in Dallas, Fort Worth, Houston, San Antonio, Corpus Christi, Lubbock, and El Paso. At those locations, hearings are held in hearing rooms. SOAH also uses hearing sites in many other areas of the state. Many of those hearing sites are located at county courthouses. You may be required to go through security screening at those locations.

What are SOAH’s policies on concealed and open carry handguns?

With the exception of licensed peace officers, no one may possess a firearm or other weapon at a SOAH hearing.

I requested an in-person hearing, but I now prefer to appear by phone. What should I do?

Contact the local SOAH and DPS-ALR offices to tell them that you would like to change the type of hearing to a telephone hearing. You will also need to file a written request with the Administrative Law Judge as soon as possible.

Preparing for the Hearing

What are the issues at the hearing?

In the middle of your Notice of Hearing, there are 2-4 paragraphs that begin with the word “**THAT**” in bold letters. Those paragraphs describe the facts that DPS must prove at the hearing.

In addition to those issues, DPS may also request an enhanced (longer) suspension period based on your driving record. An enhanced suspension period is set by statute, and it only affects drivers who have been suspended for a DWI contact (including ALR suspensions) within ten years of the current DWI arrest.

How can I get a copy of the arrest report and other documents?

You will need to file a written “production request” with DPS. The request needs to include the docket number (from your Notice of Hearing), your full name as it appears on your driver’s license, and the location of the hearing. Please look at the SOAH rules ([Chapter 159](#)) for more complete information. You may also ask the local DPS-ALR office for additional information.

What should I bring to the hearing?

You should bring a copy of your Notice of Hearing. You may bring any documents (such as items you requested and received from DPS) or witnesses you feel will be helpful to your case. Please note that DPS does not have to bring the arresting officer to the hearing unless you have issued and served a subpoena for the officer.

Subpoenas

What is a subpoena?

A subpoena is an order that requires a person to appear at a hearing and give testimony. It can also require the person to bring relevant documents to the hearing, if the person has the documents.

How do I subpoena a witness to appear at the hearing?

You will need to file with SOAH a written request, using the form entitled “ALJ-Issued ALR Subpoena Form.” The form is available on SOAH’s website at www.soah.texas.gov. The subpoena request must be filed no later than 10 days before the hearing. You must send a copy to the DPS attorney at the same time you file the request with the local SOAH office. If the subpoena is approved, you will need to follow the rules for serving the subpoena on the witness. When the witness appears for the hearing, you will need to pay a witness fee (see below).

I want to subpoena the officer who arrested me. How do I get his name and address so I can fill out the subpoena request form?

Please look at the documents you received when you were arrested and/or any documents you requested from DPS.

What documents or other items can I ask for on the subpoena form?

DWI-arrest records might include ALR-specific paperwork (DIC-23, DIC-24, DIC-25), a probable cause affidavit, a DWI arrest report, breath test paperwork (breath test slip, DIC-56), blood test paperwork (TLE-51A, lab report), other arrest paperwork completed by the officer, and video recordings. Please note that any items requested must be in the subpoenaed officer's **actual** possession. Otherwise, the officer cannot be required to bring the item to the hearing.

The subpoena request form says “Attorney at Law” on the signature line. Since I am not an attorney, what am I supposed to do?

You have downloaded the wrong form. Please download the form for ALJ-Issued Subpoenas from the SOAH website at www.soah.texas.gov.

What happens if the Administrative Law Judge approves the subpoena?

A sheriff, constable, or any person over 18 years old who is not a party to the case may serve the subpoena. You will need to make the arrangements to serve the subpoena. Service of the subpoena on the witness must be made no later than 5 days before the hearing. After you have served the subpoena, you will then need to complete the Certificate of Service and file it with both the local SOAH office and the DPS attorney no later than 3 days before the hearing.

What is the witness fee?

When a witness appears at the hearing because of your subpoena, you must pay a \$10 witness fee plus travel expenses, using the following formula:

Calculate the mileage for the witness using a recognized online mapping service, such as MapQuest or Google Maps. For a police officer, use the address of the police department as the starting point and the address of the hearing site as the end point.

Record the round-trip mileage for the witness.

If the round trip mileage is less than 25 miles, you will only need to pay the base witness fee of \$10.

If the round trip mileage is greater than 25 miles, you will need to calculate the mileage fee by multiplying the total round trip mileage by the current state mileage rate set by the Texas Comptroller's Office. You may contact the local SOAH office for information on the current state mileage rate.

After calculating the mileage fee, you will need to add the \$10 base witness fee to the mileage fee to obtain the total expected payment for the witness.

The witness fee must be paid by check or money order payable to the witness. Do not file the witness fee with SOAH. You will need to bring the check or money order to the hearing.

What is the witness fee certification?

This form is only required **after** the hearing and only if your hearing was by **telephone**. If you subpoena an officer to appear for a phone hearing, and he actually appears and testifies by phone, you will need to mail the \$10 base witness fee to the officer at his police department's address and certify that you have done so.

The Hearing

What if I have an emergency on the day of the hearing?

Please call the local SOAH office as soon as possible to let staff members know. You should also follow-up with a written explanation.

Am I allowed to ask the Administrative Law Judge questions?

At the start of the hearing, the Administrative Law Judge will describe the hearing process and ask if you have any questions. While the Administrative Law Judge cannot give you legal advice about how to proceed with your case, he or she can answer questions about hearing procedure. If you become confused at any point during the hearing, you should ask questions. At the end of the hearing, the Administrative Law Judge will ask if you have any questions before you leave.

Is a record made of the hearing?

A record of the hearing will be made on a digital audio-recording device.

Who has the burden of proof, and what is that burden?

DPS has the burden of proving all issues in the Notice of Hearing by a preponderance of the evidence. A preponderance of the evidence means that the evidence proves a fact is more likely than not true.

Will the arresting officer come to the hearing?

The DPS attorney will sometimes ask an officer to appear at the hearing, but DPS often relies only on the written arrest report to prove its case. If you want the officer to come to the hearing, you will need to subpoena the officer.

What are the different phases of the hearing?

The Administrative Law Judge will start the recording and make a series of announcements to identify your case, such as the docket number, name, location, and date. The DPS attorney will then identify himself or herself for the record, and you will be asked to state your name for the record. The Administrative Law Judge will then explain the hearing process. If you have any questions about the hearing, you may ask the Administrative Law Judge at any time during the hearing. Both parties may choose to make an opening statement at the beginning of the hearing, but it is not required. DPS will present its evidence first, since it has the burden of proof. When DPS has finished offering its evidence, you will have the opportunity to present evidence if you wish, but you are not required to present evidence. After the parties have finished offering evidence, both parties can make a closing argument. The closing argument explains why you feel the Administrative Law Judge should rule in your favor. You may make a closing argument if you wish, but you do not have to.

Do I have to testify or present other evidence at the hearing?

You are not required to testify or present other evidence at the hearing. However, if you have information that you feel would help your case, you may choose to testify or present documents as evidence. If you testify, the Administrative Law Judge will place you under oath. If there are other court cases regarding the same issues at the hearing, including a criminal case for DWI, please be aware that your testimony could be used against you in those other cases. Also, if you testify, the DPS attorney can ask you questions about any issues related to your hearing.

What kind of evidence will DPS offer?

If the arresting officer appears at the hearing, the DPS attorney will ask him questions. You will also be able to ask questions about your arrest. DPS will also offer documents, such as the arrest report, information regarding the officer's request to you after your arrest for a breath or blood specimen, results of the breath or blood test (when applicable), and your driving record (when applicable).

What if I object to the evidence DPS offers?

After DPS offers its documents, the Administrative Law Judge will ask if you have any objections. An objection means you feel there is some legal reason the Administrative Law Judge should not consider a document or certain information in the document. If you simply disagree with information included in the officer's report, this is not a legal objection. However, the Administrative Law Judge will give you the opportunity to testify later in the hearing. By testifying, you can tell the Administrative Law Judge how you feel the information in the arrest report is wrong or add information that you feel is missing from the report.

Telephone Hearings

Do I need to call for my telephone hearing?

No. The Administrative Law Judge will call you at the phone number you provided when you requested a hearing. If you need to change your telephone number, contact the local SOAH and DPS-ALR offices as far in advance of the hearing as possible. At the time of the hearing, please make sure you are in a location that is free from distractions. If you are using a cell phone, please make sure you are in a place where you receive good service. Make sure the phone line remains open at the time of the hearing, and for at least 10 minutes after the time set for the hearing, so the Administrative Law Judge can contact you. If you do not answer when the Administrative Law Judge calls, a default order may be issued and your license suspended.

How will I know what evidence DPS is offering against me?

Before a telephone hearing, you should receive a copy of the DPS exhibits in the mail. If your hearing date is soon, and you have not received the exhibits, please call the local SOAH and DPS-ALR offices. You should also tell the Administrative Law Judge, at the beginning of the hearing, if you have not received the documents or if you did not receive them in time to review them. It is important that you read the DPS documents before the hearing. You also need to have the documents with you when the Administrative Law Judge calls for the hearing. If you have documents that you plan to offer at the hearing, you will need to send a copy before the hearing to both the local SOAH office and to the DPS attorney handling your case.

After the Hearing

When will the Administrative Law Judge make a decision in my case?

The Administrative Law Judge will not make a decision during the hearing. Instead, the Administrative Law Judge will review the evidence and prepare a written decision, usually within four business days after your hearing.

How do I get a copy of the Administrative Law Judge's decision?

The decision will be mailed to you at the address listed on your Notice of Hearing, unless you have provided a new address. Please let the Administrative Law Judge know at the hearing if there are any changes to your address.

What will the Administrative Law Judge consider in making the decision?

The judge will review the evidence presented at the hearing that was admitted into the record. He or she will then decide if DPS proved each fact in the Notice of Hearing by a preponderance of the evidence. If so, then the Administrative Law Judge must authorize DPS to suspend your

license for the amount of time provided by law for your case. If DPS failed to prove its case, then the Administrative Law Judge will deny DPS the authority to suspend your license.

If the Administrative Law Judge authorizes a suspension, when will the suspension start?

If the Administrative Law Judge authorizes the suspension, the suspension will start the day after the Administrative Law Judge signs the decision. Until the Administrative Law Judge issues a decision, you may drive using your Notice of Suspension/Temporary Driving Permit, so long as there are no unrelated suspensions on your driver's license.

I received a default order in the mail, but I did not mean to miss my hearing.

If you did not receive the Notice of Hearing before the hearing date, or an emergency or issue caused you to miss your hearing, you may ask that the Administrative Law Judge set aside the default and grant a new hearing. The request must be in writing and filed with the Administrative Law Judge within 10 business days after the default order was signed. You will need to provide your full name as it appears on your driver's license, the docket number on the Notice of Hearing and default order, the hearing date and location, and the reason you did not appear for your hearing. The Administrative Law Judge will consider your request and issue a written order as to whether the default will be set aside. This order will be mailed to your address as reflected in the Notice of Hearing. If the Administrative Law Judge sets aside the default order, you will receive another notice with the new hearing date and time.

A form for a motion to set aside a default order can be found at the end of this Guide.

Suspensions

I have never been in trouble before. Will that affect the length of my suspension or make me eligible for a probated suspension?

No. By law, the Administrative Law Judge can only authorize or deny the suspension of your driver's license. The suspension period is set by law, and it cannot be shortened or probated by the judge.

What happens if I drive while my license is suspended?

If you drive while your license is suspended, and you have not obtained a valid occupational license, you may be arrested and subjected to criminal penalties. You may also receive an additional suspension of your driver's license.

I received a Default Order in the mail, and I do not wish to contest the default. The order does not indicate the length of the suspension period. How long is my license suspended?

The suspension period imposed by DPS is set by law. Because the Administrative Law Judge did not issue a decision on the merits of your case, you must contact DPS for information about the length of the suspension.

I have withdrawn my request for a hearing (waived my right to a hearing). The order does not indicate the length of the suspension period. How long is my license suspended?

The suspension period imposed by DPS is set by law. Because the Administrative Law Judge did not issue a decision on the merits of your case, you must contact DPS for information about the length of the suspension.

I won my hearing. How do I get my driver's license back?

DPS in Austin will send you a new license at the address listed on your driving record. If your official address with DPS (on your driving record) is not current, it is important that you update the address as soon as possible. Please note that including a new address on your request for hearing does not update your official driving record.

My license was suspended. How do I get my driver's license back?

At the end of your suspension period, your license may be eligible for reinstatement. If there are no other actions against your license, you can reinstate your license after paying the required fee to DPS in Austin (see information about the fee and the mailing address on the Notice of Suspension you received). After reinstatement, DPS in Austin will send you a new license at the address listed on your driving record. If your official address with DPS (on your driving record) is not current, you should update the address as soon as possible. Please note that including a new address on your request for hearing does not update your official driving record.

There are surcharges on my driving record. What are those for and what if I cannot afford to pay?

Any questions regarding surcharges should be directed to DPS. SOAH does not have any information about surcharges on your driving record. You can call DPS at (512) 424-2600.

Appeals

Can I appeal the Administrative Law Judge's decision?

If you disagree with the Administrative Law Judge's decision, you may file an appeal in the county court-at-law in the county where you were arrested. If there is no county court-at-law in

the county, then you may file the appeal in the county court. The appeal must be filed within 30 calendar days after the Administrative Law Judge signed the decision. Different courts have different procedures and fees for filing an appeal. You should contact the court where you will file your appeal for further information. If you file an appeal with a court, you must send a certified copy of your appeal to both SOAH and DPS at its headquarters in Austin. You may also need to order a certified record of the hearing (check with the court to see if required), and you will be responsible for the cost of preparing the record. For information about the cost of preparing your hearing record, please contact your local SOAH office. The judge of the court handling the appeal will review the record of your hearing to determine whether to uphold the decision, reverse the decision, or take other action.

I filed an appeal of the Administrative Law Judge’s decision. Is my license still suspended?

Some drivers will qualify for a temporary stay of their license suspension, up to 90 days, if they properly file an appeal and provide proper notice to DPS and SOAH. Drivers with prior alcohol-related suspensions on their driving records may not qualify for the temporary stay.

Occupational Driver’s Licenses

I need a license to drive to work or school. What can I do?

SOAH can’t issue occupational driver’s licenses. Those licenses are generally handled by the county court-at-law. You may ask that court (either in the county of arrest or your county of residence) for information about how to get an occupational driver’s license. Some of those courts may post general information on their websites about occupational driver’s licenses. You can also contact the DPS Customer Service Center at 800-394-9913.

Forms

The next few pages contain forms you can use to ask that your case be rescheduled (by using a motion for continuance) and to set aside a default if you missed your hearing.

State Office of Administrative Hearings
Motion for Continuance (Self-Represented)

Instructions

Use this form if you need to reschedule the SOAH hearing and you believe you have good reason for the hearing to be postponed.

Before completing this form, you will need to contact the other party (or their attorney) and tell them that you plan to file a Motion for Continuance. You should do this as soon as you know that you need to reschedule the hearing. If the other party is a state agency, you will find contact information for the agency attorney on the Notice of Hearing. Ask the other party if they have any objection to the continuance. You should also talk about dates when you are both available for rescheduling.

Enter the SOAH docket number, case name, hearing date, time, and location as those items appear on your Notice of Hearing (or order from the judge).

Enter your name, as well as your current address and phone number.

Explain why you can't attend the hearing on the currently scheduled date and time.

Say when you first learned that you can't attend.

Give the name of the other party (or attorney) you contacted to discuss your Request for Continuance.

If you were able to speak to the other party, say whether he or she agrees to the continuance.

If you left a message for the other party, please give them two business days to call you back UNLESS the hearing is seven days away or less. If you don't hear from the other party after two business days, or the hearing is a week away or sooner, check the box indicating that the other party was not available to discuss your request.

Provide three other dates for rescheduling if you and the other party were able to agree to them. If you spoke to the other party and could not agree on dates, then list your available dates and state that the other party has not provided their available dates. Please note that the dates you request may not be available.

The judge may deny the continuance, even if the parties agree to it. The judge might also schedule a hearing that would happen on the telephone to address your request. Until the judge grants the Request for Continuance, the existing schedule remains in place.

You must serve a copy of the Motion for Continuance on the other party and complete the certification.

State Office of Administrative Hearings
Motion for Continuance (Self-Represented)

SOAH Docket Number:

Case Name:

Hearing Date and Time:

Hearing Location:

1. Enter your name, address, and phone number:

2. I cannot attend the hearing on the scheduled date and time because:

3. I learned of these facts on or about:

4. I contacted

who is the other party to the hearing or the other party's attorney. The other party:

_____ DOES NOT OPPOSE the continuance.

_____ OPPOSES the continuance.

_____ WAS NOT AVAILABLE to discuss the request.

5. Both parties are available for rescheduling as follows:

6. I understand that the judge may grant or deny the request, regardless of whether both parties agree to a continuance, and the judge may not be able to reschedule the case for the date I requested.

7. I certify that on this date I served a copy of the Motion for Continuance to the opposing party by the following means:

_____ first class mail _____ fax _____ email

Date

Signature

State Office of Administrative Hearings
Motion to Set Aside Default (Self-Represented)

SOAH Docket Number:

Case Name:

Hearing Date, Time and Location:

- 1. Enter your name, address, and phone number:**

- 2. I hereby request that the default decision issued against me in this case be set aside and that the hearing and record be reopened. There is good cause to set aside the default and reopen the hearing, and/or it is in the interest of justice to set aside the default and reopen the hearing, because:**

3. My failure to appear at the hearing was not intentional or the result of conscious indifference, but was accidental and a mistake on my part.

4. I can be available on the following dates for rescheduling the hearing:

5. I contacted

who is the other party to the hearing or the other party's attorney. The other party:

_____ DOES NOT OPPOSE this motion.

_____ OPPOSES this motion.

_____ WAS NOT AVAILABLE to discuss this motion.

6. I certify that on this date I served a copy of this request to the opposing party by the following means:

_____ first class mail _____ fax _____ email

Date

Signature